

**RHODE ISLAND DEPARTMENT OF LABOR & TRAINING
DIVISION OF PROFESSIONAL REGULATION
SAFETY AWARENESS BOARD**

Thursday, September 22, 2011

9:00 A.M.

In attendance: Eric Anderson

Timothy Byrne

Nicholas Giardino

Joseph Sabitoni, Chair

Bernard Trembl

Mark Ryan, Investigator

Benjamin Coppel, Legal Counsel

Not in attendance: Robin Coia

Wayne Coulombe

James Jackson

Edgar Ladeceur

Meeting was called to order at 9:06 am by Joseph Sabitoni. A quorum is present.

Minutes:

Bernard Trembl made a motion to accept the minutes to the previous meeting; seconded by Nicholas Giardino and passed unanimously by

the board.

Hearings:

- 1.) David Lemek (Violation # 4096)**
- 2.) VJR, LLC (Violation # 4095)**
- 3.) InSite Construction, LLC (Violation # 4094)**

Attorney John Manni represents all three parties. Benjamin Copple marked two letters from InSite dated 8/8/11 as Petitioners Exhibit A and 8/11/11 letter from John Manni as Petitioners Exhibit B. Attorney Manni agreed to combine the hearings. David Lemek, Vincent Russo, owner of VJR, LLC, and Mark Ryan, Investigator, are sworn in for testimony. Mark Ryan, Investigator read the violation: On May 13, 2011, Mark Ryan, Prevailing Wage Investigator, visited the University of RI – Hillside Residence Hall Project and interviewed David M. Lemek of VJR, LLC. This individual was working on the project without OSHA-10 Hour certification. This is a violation of RIGL 37-23-1 “Safety Awareness Program Required.” David Lemek gives testimony. The Board questions Mr. Lemek. Vincent Russo, owner of VJR, LLC, gives testimony. The Board questions Mr. Russo. A packet of photographs, ID cards and certificates is submitted as Petitioners Exhibit C. The Board questions Mark Ryan. Mr. Ryan explains the violation was issued to the employee, David Lemek, who did not have the OSHA-10 card and based on the Safety Awareness statute the violation was sent to the employer of David M. Lemek, VJR, LLC, and to the contractor InSite Construction, LLC, that hired

VJR, LLC as a sub-contractor.

Regarding the violation to David Lemek (Viol # 4096), given that Mr. Lemek did not possess an OSHA safety card at the time, Timothy Byrne made a motion that Violation # 4096 of RIGL 37-23-1 "Safety Awareness Program Required." did in fact occur and seconded by Nicholas Giardino. There was a discussion. The motion passed unanimously by the Board. Timothy Byrne made a motion to suspend the original fine of \$250.00 for one year pending no further violation seconded by Eric Anderson and passed unanimously by the Board. This recommendation will be forwarded to the Director.

Regarding the violation to VJR, LLC (Viol # 4095), Nicholas Giardino made motion that Violation # 4095 did occur, seconded by Timothy Byrne and passed unanimously by the Board. Nicholas Giardino made a motion to reduce the original fine of \$500.00 to \$250.00; seconded by Eric Anderson and passed unanimously by the Board. This recommendation will be forwarded to the Director.

Regarding the violation to InSite Construction, LLC (Viol # 4094) the board questions InSite Construction, LLC representative, John Manni, Esquire. Nicholas Giardino made a motion that Violation # 4094 did occur; seconded by Bernard Trembl and passed unanimously by the Board. Eric Anderson made a motion to reduce the original penalty of \$500.00 to \$250.00; there was no second and the motion fails. A substitute motion was made by Nicholas Giardino that the \$500.00

fine be upheld; seconded by Timothy Byrne. There is a discussion. The vote was 4 to 1 with Eric Anderson in opposition. The motion carries. This recommendation will be forwarded to the Director.

End of hearings.

Board Member Training:

Ben Copple addressed the Board regarding the Board Member training that took place on Monday, September 19, 2011 where Mr. Anderson, Mr. Byrne and Mr. Trembl were in attendance. Another session will be held on Monday, September 26, 2011. The session will address conflicts of interest, the Open Meetings law and Administrative Procedures. Mr. Copple encouraged those that have not attended the session to attend the next session. The Board has a discussion of the training.

A motion to adjourn was made by Nicholas Giardino, seconded by Eric Anderson and passed unanimously by the Board.

The meeting adjourned at 9:37am.

The next meeting is scheduled for Wednesday, October 12, 2011 at 9:00 am.